

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Jonda M. Evans,

Plaintiff,

vs.

Jo Anne B. Barnhart, Commissioner of
Social Security,

Defendant.

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C/A No.: 8:05-0047-MBS

OPINION AND ORDER

Plaintiff Jonda M Evans filed an application for disability insurance benefits on November 21, 2000, alleging disability commencing January 10, 1998 because of rheumatoid arthritis and osteoarthritis. The application was denied initially and upon reconsideration. Plaintiff requested a hearing before an administrative law judge (“ALJ”). The ALJ held a hearing on March 10, 2003. On July 3, 2003, the ALJ issued a decision that Plaintiff’s was not entitled to a period of disability or to disability insurance benefits under sections 216(i) and 223, respectively, of the Social Security Act. The decision of the ALJ became the “final decision” of the Commissioner on November 18, 2004, after the Appeals Council determined that there was no basis for granting Plaintiff’s request for review. Plaintiff thereafter brought the within action pursuant to 42 U.S.C. § 405(g), seeking judicial review of the “final decision” of the Commissioner.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bruce H. Hendricks for a Report and Recommendation. On February 17, 2006, the Magistrate Judge filed a Report of Magistrate Judge in which she determined that the ALJ erred in not finding that Plaintiff meets the requirements of Listing 1409. See 20 C.F.R. pt. 404, subpt. P, app. 1. Accordingly, the Magistrate Judge recommended that the decision of the Commissioner be reversed, with a remand of the case to the Commissioner for further proceedings.

No party filed an objection to the Report of Magistrate Judge.

The court is charged with making a *de novo* determination of any portions of the Report of Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

After a thorough review of the Report and the record in this case, the court adopts the Report of Magistrate Judge and incorporates it herein by reference. Accordingly,

It is ORDERED that the Commissioner's decision be **reversed** and the case **remanded** to the Commissioner for further proceedings consistent with this order and the Report of Magistrate Judge.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

March 13, 2006.